

# GARRETT & JENSEN

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December 8<sup>th</sup> 2010

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Occupational Safety & Health Standards Board (OSHSB)  
C/O Executive Officer, Marley Hart  
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OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

- RE: 1. **Petition** for NEW Regulation entitled Title 8, Division 4 (Division of Industrial Safety), Subchapter 7 (General Industry Safety Orders), Group 4, (General Mobile Equipment and auxiliaries), Article 35 (Amusement Rides), PROPOSED NEW Section 3921 *Certified Inspectors and Inspections*.  
2. *Application for Permanent Variance* (December 8<sup>th</sup> 2010)

Dear Ms. Hart & Board Members:

I have been asked to represent the interests and present the testimony of the below specified California Portable Ride Operators, who make up the majority of the members of the California Portable Ride Operators LLC (CalPRO.) I am General Counsel to this organization and this letter is on behalf of CalPRO as an organization as well.

We herewith present this **Petition** for the addition of a NEW PROPOSED Regulation which we have entitled Title 8, Division 4 (Division of Industrial Safety), Subchapter 7 (General Industry Safety Orders), Group 4, (General Mobile Equipment and Auxiliaries), Article 35 (Amusement Rides), PROPOSED Section 3921 Certified Inspectors and Inspections (Exhibit 1.) We are also herewith submitting an *Application for Permanent Variance* (120810) (Exhibit 2.) The basis and reasoning therefore are set forth below (Exhibit 3) and will be augmented at the hearing(s) or meeting(s) of the Board as necessary. We will formally appear on December 16<sup>th</sup> at the *State Resources Building* 1416 Ninth Street Auditorium, Sacramento at 10:00 am in support of the proposed regulation and variance.

The Division was informed of this desire to implement usage of independent inspectors as authorized by Labor Code §§ 7904 & 7905 and the new regulation for independent inspectors in letters dated July 19<sup>th</sup> 2010, May 3<sup>rd</sup> 2010 pp 6-7, December 9<sup>th</sup> 2009, June 10<sup>th</sup> 2009 and April 29<sup>th</sup> 2009 (Exhibit 4). The Division responded February 3<sup>rd</sup> 2010 (Exhibit 4) with a narrow interpretation of Labor Code §7905 term "employed by" as is discussed in Exhibit C and the *Application for Variance*. In several subsequent meetings the Division was further informed, but felt unable to expand its interpretation of "employed by" or implement the usage of independent inspectors.

Exhibit 5 is an ever-growing list of those very experienced with portable ride operations such as fairs, consultants, insurance companies and rider operators themselves who deal with independent inspectors as a regular part of their operations who are supportive of these efforts.

We readily appreciate your time and efforts. We also realize that the OSHSB serves an important purpose for the citizens of California. If you have any questions or comments please let us know.

Very truly yours,

GARRETT & JENSEN



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